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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,411	08/20/2003	Jean-Francois Riou	STO1004 US CIP	7926
5487	7590	10/04/2007		
ANDREA Q. RYAN SANOFI-AVENTIS U.S. LLC 1041 ROUTE 202-206 MAIL CODE: D303A BRIDGEWATER, NJ 08807			EXAMINER PERREIRA, MELISSA JEAN	
			ART UNIT 1618	PAPER NUMBER
			NOTIFICATION DATE 10/04/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPatent.E-Filing@sanofi-aventis.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/644,411	<b>Applicant(s)</b> RIOU ET AL.	
	<b>Examiner</b> Melissa Perreira	<b>Art Unit</b> 1618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2,4,7 and 13-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,4,7 and 13-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Claims 2,4,7 and 13-16 are pending in the application. Claims 1 and 3 were cancelled in the amendment filed 9/12/07. Any objections and/or rejections from previous office actions that have not been reiterated in this office action are obviated.

#### ***Response to Arguments***

1. Applicant's arguments filed 9/12/07 have been fully considered but they are not persuasive.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2,4,7,13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tang et al. (US 6,133,305) in view of Tang et al. (US 5,792,783) as stated in the office action mailed 3/12/07. The modified rejection was necessitated by the amendment.

4. Applicant asserts that there is only a generic disclosure for an imidazolylmethylene at the 3-position in the reference of Tang et al. (US 5,792,783).

5. As Tang et al. (US 5,792,783) does disclose the possible substitution of an imidazolylmethylene at the 3-position it would be obvious to perform the substitution as the application of the substitution generates predictable results.

6. Applicant asserts that the generic disclosure of Tang et al. (US 6,133,305) is massive and the indolinones substituted at the 3-position with a pyrrol-2-ylmethylidenyl or imidazol-4-ylmethylidenyl are substituted at the 5 and 7 positions with halogen atoms and not with substituents of the instant claims.

7. The reference of Tang et al. (US 5,792,783) was used to teach aryl, such as heterocyclic aryl (not excluding pyridyl) or acetylamino NHC(O)R at the 5-position and in combination with the reference of Tang et al. (US 6,133,305) it would be obvious to try/substitute the groups of Tang et al. (US 5,792,783), regardless of the number of possible substitutions, for the C-5 halogens of Tang et al. (US 6,133,305). Both disclosures are drawn to similar/comparable products, such as compounds having indolinone cores that modulate kinase activity and the substitution would provide predictable results.. It is obvious to those skilled in the art to make known substitutions on compounds that are similar in structure and function to observe the effects on the function of such compounds and to use the observations/data to further manipulate a compound to generate the desired effect

8. Applicant's attention is directed to KRS International Co. v. Teleflex Inc., 550 U.S.-, 82 USPQ2d 1385 (2007).

9. Applicant asserts that Tang et al. (US 5,792,783) and Tang et al. (US 6,133,305) do not describe the use of the compounds as specific inhibitors of CDK-1, in particular in order to stop cell proliferation at phase G2/M. The intended use of specific inhibitors of CDK-1 is not afforded any patentable weight. "The recitation of a new intended use for an old product does not make a claim to that old product patentable." *In re*

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*Schreiber*, 44 USPQ2d 1429 (Fed. Cir. 1997). Also, the instant claims do not recite that the compounds are inhibitors of CDK-1.

10. Claims 2,4,7,13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tang et al. (US 5,792,783) as stated in the office action mailed 3/12/07. The modified rejection was necessitated by the amendment.

11. Applicant asserts that the genera of Tang et al. (US 5,792,783) is enormous and that to arrive as the present invention, one must make the multiple selections (8 variable moieties) disclosed by the examiner. Applicant asserts that none of the compounds exemplified contain an imidazolylmethylene moiety or a pyridyl moiety at the 5-position.

12. Tang et al. (US 5,792,783) discloses the selections disclosed by the examiner (8 variable moieties) and it would be obvious to try/utilize the groups of Tang et al. (US 5,792,783), regardless of the number of possible substitutions, since any combination is obvious and the results would be predictable. It is obvious to those skilled in the art to make known substitutions on compounds that are similar in structure and function to observe the effects on the function of such compounds and to use the observations/data to further manipulate a compound to generate the desired effect.

13. Applicant's attention is directed to *KRS International Co. v. Teleflex Inc.*, 550 U.S.-, 82 USPQ2d 1385 (2007).

***Conclusion***

No claims are allowed at this time.

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa Perreira whose telephone number is 571-272-1354. The examiner can normally be reached on 9am-5pm M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Hartley can be reached on 571-272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MP

September 25, 2007



MICHAEL G. HARTLEY  
SUPERVISORY PATENT EXAMINER